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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,985	10/05/2006	Nathan Arthur Tranter	42-000600US	5992
22798 7590 10/14/2009 QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. P O BOX 458 ALAMEDA, CA 94501				
EXAMINER				
ING, MATTHEW W				
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3637				
MAIL DATE		DELIVERY MODE		
10/14/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/580,985

**Applicant(s)**

TRANTER ET AL.

**Examiner**

MATTHEW W. ING

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/11/06, 6/23/08, & 1/21/09.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species 2 in the reply filed on 9/14/09 is acknowledged.
2. Claims 2-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/14/09.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 9/11/06, 6/23/08, & 1/21/09 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first & second panels level with the frame (claims 11-12 & 17), a pair of legs extending from a first panel (claim 15), and a remote-controlled motor (claims 19-20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claims 12-13 & 21-22 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.
6. Regarding claims 12-13, whereas the sole limitations of each of these claims impose further limitations upon the "first position" and "second position", respectively, and whereas the "first position" and "second position" denote intended use and not positively-claimed structure; these claims therefore fail to further limit claim 11.
7. Regarding claim 21, whereas the term "product", as used in claim 1, denotes intended use and not positively-claimed structure, the sole limitation of claim 21 therefore fails to further limit parent claim 1.

8. Regarding claim 22, whereas, as noted below, the term "surface" is viewed as denoting intended use, and not positively claimed structure, the sole limitation of claim 21 fails to further limit parent claim 1.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1 & 11-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding claim 1, the inclusion of the term "surface" renders the claim(s) indefinite, since it is unclear whether this term actually denotes a component of the claimed invention, or is merely included for illustrative purposes. For the purposes of examination, the examiner is considering that the term "surface" is not part of the claimed invention; but rather that it is included merely for illustrative purposes.

12. Regarding claims 12-13 & 17, it is unclear whether the term "level" denotes "parallel" or "coplanar". For the purposes of examination, the examiner is considering the term "level" to denote "coplanar".

13. Claim 17 fail(s) to recite sufficient structural elements and interconnection of the elements to positively position and define the structure(s) & component(s) whereby the side frame is rendered capable of "enabl[ing] the first panel to remain level with and in the frame in the first position and [enabling] the second panel to remain level with and in the frame in the second position", so that an integral structure able to function as claimed is recited.

14. Regarding claims 14-16 & 18-22, the dependence of such claim(s) upon an indefinite base claim renders said claim(s) indefinite.

***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1, 11-14, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (1,894,185).

17. Regarding claim 1, Martin teaches a frame (5) having an opening (6) and mounted on or in a surface; a member (8 & 9-11) moveable within the frame and for securing the product; and a pivot assembly (hinge between 8 & 8') connecting the frame to the member, thereby enabling movement of the member between a first position and a second position; such that in the first position the product is concealed from view, and in the second position the product is in view and accessible by a user.

18. Regarding claim 11, Martin teaches a member (8 & 9-11) comprising a first panel (10) and a second panel (9) connected by one or more side frames (upper portions of 11).

19. Regarding claims 12-13, Martin teaches first (10) & second (9) panels, and a frame (5). Whereas, as noted above, claims 12-13 fail to further limit the claimed structure recited in claim 11; it can therefore be said that the structure of Martin also reads upon the limitations of these claims.

20. Regarding claim 14, Martin teaches a portion of the first panel (10) being connected to the frame through the pivot assembly (hinge between 8 & 8').
21. Regarding claims 21-22, Martin teaches a member (9-11) clearly capable of holding an appropriately-sized a projector unit, keyboard, telephone or monitor; as well as a surface (Fig. 1) being a wall or part of a piece of furniture.
22. Claims 1, 11-15, & 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Vogel (2,048,363).
23. Regarding claim 1, Vogel teaches a frame (portion of 2 surrounding 9) having an opening and mounted on or in a surface (remainder of 2); a member (5-6, 9) moveable within the frame and for securing the product; and a pivot assembly (4, 7) connecting the frame to the member, thereby enabling movement of the member between a first position and a second position; such that in the first position the product is concealed from view, and in the second position the product is in view and accessible by a user.
24. Regarding claim 11, Vogel teaches a member (5-6, 9) comprising a first panel (9) and a second panel (rear portion of 5) connected by one or more side frames (5a).
25. Regarding claims 12-13, Vogel teaches first (9) & second (rear portion of 5) panels, and a frame (portion of 2 surrounding 9). Whereas, as noted above, claims 12-13 fail to further limit the claimed structure recited in claim 11; it can therefore be said that the structure of Vogel also reads upon the limitations of these claims.
26. Regarding claim 14, Vogel teaches a portion of the first panel (9) being connected to the frame through the pivot assembly (4, 7).

27. Regarding claim 15, Vogel teaches a pair of legs extending from a first panel (9), a distal end of each leg being connected to the frame through the pivot assembly (4, 7).

28. Regarding claims 21-22, Vogel teaches a member (5-6, 9) clearly capable of holding an appropriately-sized a projector unit, keyboard, telephone or monitor; as well as a surface (Fig. 1) being a wall or part of a piece of furniture.

***Claim Rejections - 35 USC § 103***

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

31. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (2,048,363) as applied to the claim(s) above, further in view of McNeil (D410,163). Vogel teach(es) the structure substantially as claimed, including a rod (left & right portions of 7) attached to or formed in each of the legs (6) and a bush-like structure (4) formed in opposing sections of the frame for receiving a respective rod, the frame comprising four sections (i.e., top, bottom, left, & right portions of 2 surrounding 9). The only difference between Vogel and the



invention as claimed is that Vogel fail(s) to teach a bush formed in said opposing sections for receiving a respective rod. McNeil, however, teaches a bush (Fig. 1) formed in said opposing sections for receiving a respective rod. It would have been obvious to one of ordinary skill in the art to substitute a bush, as taught by McNeil, for each of those of Vogel, since the results of substituting one known rod-holding component for another would have been predictable; thereby providing the structure substantially as claimed.

32. Regarding claim 17, Vogel teaches each side frame (5a) being shaped to enable the first panel to remain level with and in an appropriately-sized and -shaped frame in the first position and to enable the second panel to remain level with and in an appropriately-sized and -shaped frame in the second position. Whereas, as noted above, applicant fails to recite any additional structure or components whereby said side frame is rendered capable of enabling the first & second panels to remain level with & in said frame in said respective first & second positions, it is therefore reasonable to conclude that any structure comprising a side frame - such as that of Vogel - is obviously capable of performing this function.

33. Regarding claim 18, Vogel teaches each side frame (5a) comprising four segments joined in the shape of a quadrilateral (see Figs. 5 & 7), with a segment joined respectively to the first panel (9) and the second panel (rear surface of 5).

34. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (2,048,363) as applied to the claim(s) above, further in view of Nott (2002/0079792). Vogel teach(es) the structure substantially as claimed, including a pivot assembly (4, 7). The only difference between Vogel and the invention as claimed is that Vogel fail(s) to teach a remote controlled motor connected to the pivot assembly in order to control the pivot means assembly to

operate the member to move between the first position and the second position. Nott, however, teaches a remote controlled (par. 72) motor (M) connected to a pivot assembly in order to control the pivot means assembly to operate the member to move between the first position and the second position. It would have been obvious to one of ordinary skill in the art to connect a motor, as taught by Nott, to the pivot assembly of Vogel, in order to reduce the amount of effort required for a user to actuate the member thereof, thereby providing the structure substantially as claimed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MWI  
1 October 2009  
/José V. Chen/  
Primary Examiner, Art Unit 3637